

CONSENT TO SUBLEASE

THIS CONSENT TO SUBLEASE ("Consent") is provided by THE CITY OF SAN DIEGO, a California municipal corporation ("City"), to BH Partnership, a California Limited Partnership ("Lessee/Sublessor"), to be effective upon execution by the City and approval by the San Diego City Attorney, as follows:

RECITALS

- A. City and Lessee/Sublessor entered into a City of San Diego Percentage Lease ("Agreement") dated May 16, 2013 and filed as document RR-308013 in the Office of the San Diego City Clerk, relating to that certain City-owned real property located in the City of San Diego, County of San Diego, State of California, commonly known as the "Bahia Resort Hotel," located in Mission Bay Park ("Property").
- B. Lessee/Sublessor now desires to sublease a portion of the Property to Action Beach & Bay Rentals, Inc., a California Corporation ("Sublessee").
- C. The Agreement requires City to consent to the sublease of any portion of Lessee/Sublessor's right, right and/or interest in the Agreement.

NOW, THEREFORE, for valuable consideration the receipt and sufficiency of which is acknowledged, City provides its Consent subject to the following:

- 1. Subject to the terms and conditions herein, City hereby consents to Lessee/Sublessor's request to sublease a portion of its right, title and interest in and to the Agreement to Sublessee. By giving this Consent, City is merely consenting to the requested subleasing. All terms and conditions of the Agreement shall control and supersede any inconsistent or contrary provisions in any sublease agreement executed between Lessee/Sublessor and the Sublessee, except as otherwise approved herein; and
- 2. City's Consent is conditioned upon Sublessee's written agreement that it will assume all rights and obligations as "LESSEE" under the Agreement; and
- 3. City does not release, discharge or modify Lessee/Sublessor's obligations to City under the Agreement. As set forth in applicable law, Lessee/Sublessor's obligations under the Agreement shall survive said sublease and shall continue through the termination dates of the Agreement, as set forth therein; and
- 4. This Consent does not constitute consent to any subsequent subleasing of any right, title and/or interest in and to the Agreement.
- 5. Sublessor agrees to pay City any applicable processing and/or administrative fee(s) for processing this Consent.
- 6. City shall not be liable for any brokerage commission or finder's fee in connection with the consummation of the sublease. Further, Lessee/Sublessor agrees to protect, defend, indemnify, and hold City, its elected officials, officers, representatives, agents, and

employees harmless from and against any claim for any brokerage commission or finder's fee related to the consummation of this Consent, and from and against any cost or expense (including without limitation attorney fees) incurred by City in resisting any claim for any such brokerage commission or finder's fee.

IN WITNESS WHEREOF, this Consent to sublease is executed by City acting by and through its Mayor, or his designee.

THE CITY OF SAN DIEGO, a California municipal corporation

Date: 6/3/16

By: [Signature]
Cybele Thompson
Director, Real Estate Assets Department

Planning Department - Environmental Clearance:

This activity is categorically exempt from CEQA pursuant to State CEQA Guidelines Sections 15301 (Existing Facilities).

Date: 5/23/16

BY: [Signature]
Name: Alyssa Muto

Title: Deputy Director, Environment & Planning Dept. Policy Analysis

Approved as to form this 13th
day of June, 2016

JAN I. GOLDSMITH, City Attorney

BY: [Signature]
Name: Hilda R. Mendoza
Title: Deputy City Attorney



Date of Notice: May 25, 2016

NOTICE OF RIGHT TO APPEAL ENVIRONMENTAL DETERMINATION PLANNING DEPARTMENT

PROJECT NAME/NUMBER: Consent to Sublease, BH Partnership, a California Limited Partnership

COMMUNITY PLAN AREA: Mission Bay Park

COUNCIL DISTRICT: 2

LOCATION: 998 W. Mission Bay Dr., San Diego, CA 92109

PROJECT DESCRIPTION: Consent to sublease agreement between BH Partnership, d.b.a. Bahia Resort Hotel and Action Beach and Rentals Inc., a California Corporation allowing the subleasing of approximately 150 square feet of the marina dock together with exterior space as may be appropriate and agreed upon by Bahia Resort Hotel for the rental of small boats and watercraft, instruction related to the rental of small boats and watercraft, operation of an excursion boat/water taxi to SeaWorld and rental of bicycles and beach equipment to the patrons of the hotel and the general public.

ENTITY CONSIDERING PROJECT APPROVAL: City of San Diego Mayor-Appointed Designee

ENVIRONMENTAL DETERMINATION: CEQA Exemption Section 15301- Existing facilities

ENTITY MAKING ENVIRONMENTAL DETERMINATION: City of San Diego Mayor-Appointed Designee, Environment & Policy Analysis, Planning Department

STATEMENT SUPPORTING REASON FOR ENVIRONMENTAL DETERMINATION: This activity has been determined to be exempt from CEQA pursuant to CEQA Section 15301 (Existing Facilities) which allows for the operation, repair, maintenance, permitting, leasing, licensing or minor alterations of existing public or private structures or facilities involving negligible or no expansion of use; and where the exceptions listed in CEQA Section 15300.2 would not apply in that no cumulative impacts were identified; no significant effect on the environment were identified; the project is not adjacent to a scenic highway; no historical resources would be affected by the action, and the project was not identified on a list of hazardous waste sites pursuant to Section 65962.5 of the Government Code.

PROJECT MANAGER: Vladimir Balotsky, SR/WA
Real Estate Assets Department

MAILING ADDRESS: 1200 Third Avenue, Suite 1700, MS 51A
San Diego, CA 92101

PHONE NUMBER: (619) 235-5248

On May 25, 2016, the City of San Diego made the above-referenced environmental determination pursuant to the California Environmental Quality Act (CEQA). This determination is appealable to the City Council. If you have any questions about this determination, contact the City Project Manager listed above.

Applications to appeal CEQA determination made by staff (including the City Manager) to the City Council must be filed in the office of the City Clerk within 10 business days from the date of the posting of this Notice (**June 8, 2016**). The appeal application can be obtained from the City Clerk, 202 'C' Street, Second Floor, San Diego, CA 92101.

This information will be made available in alternative formats upon request.

POSTED IN THE OFFICE OF DSD

POSTED: 5/25/16

REMOVED: 6/8/2016

POSTED: M. Hermann